

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

Order No. 88-135

UPDATED WASTE DISCHARGE
REQUIREMENTS FOR:

ACME FILL CORPORATION
ACME SOLID WASTE DISPOSAL SITE
MARTINEZ, CONTRA COSTA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter called the Board), finds that:

1. Acme Fill Corporation, hereinafter called the discharger, owns and operates the Acme Sanitary Landfill. This landfill site is located at the end of Waterbird Way near Martinez, Contra Costa County, and is bounded by Waterfront Road to the north, rolling hills to the west, and Pacheco Creek and Walnut Creek to the south and east, as shown on Attachments A and B which are incorporated herein and made part of this Order.
2. The discharger submitted a National Pollutant Discharge Elimination System (NPDES) permit application dated May 10, 1988 for expansion of the existing landfill into adjacent wetlands (see Attachment B). On May 25, 1988 the discharger withdrew the NPDES application and submitted a partial report of waste discharge for the same areas. The proposed expansion consists of 24 acres located north of the east parcel and east of the north parcel, and 8 acres located northwest of the north parcel. The discharger has indicated that the proposed expansion areas are wetlands.
3. The discharger applied on May 10, 1988 to the Army Corps of Engineers for a Clean Water Act Section 404 permit to construct levees on the wetlands to contain the solid waste, and increase the height of the East parcel.
4. On April 20, 1976, the Board adopted Order No. 76-36. Order No. 76-36, Provision C.3. prohibited the disposal of hazardous and non-hazardous solid waste in what is now known as the East parcel, and in the areas described in the May 25, 1988 report of waste discharge "until the Executive Officer agrees in writing that the measures necessary to meet waste discharge requirements have been taken."
5. On April 18, 1984, the Board adopted the NPDES permit Order No. 84-18 for expansion of the landfill into the wetland areas in the East parcel. Order No. 84-18 did not include the proposed fill areas.

6. Order 84-18, Finding 21 states in part:

"The Board hereby finds that a public need currently exists for the filling of wetlands ... which cannot feasibly be met by the use of an upland disposal site. The Board further finds that the disposal capacity provided by its authorization for the filling ... is sufficient to allow time for the responsible agencies of local government to locate or establish an alternative upland site for future solid waste disposal. In light of the above findings, it is the intent of this Board not to permit the filling of additional wetlands at the Acme site beyond that provided for in this Order." (emphasis added)

7. Order No. 84-18 was appealed by Save San Francisco Bay Association and the San Francisco Bay Chapter of the Sierra Club to the State Water Resources Control Board. The basis for the appeal was that the Board did not adequately consider the need for protection of wetlands, and that there was no public need for a dump at that particular site at that time. The State Water Resources Control Board found that there was a public need because the existing site (north parcel) was very near capacity (1.5 to 5 weeks remaining capacity), and that a large population depended on the site. However the State Board also stated that there was a need for immediate and sustained action on the part of Contra Costa County to find an alternative to any further expansion onto additional wetlands at the Acme site.

In their determination the State Water Resources Control Board concluded that Contra Costa County is the primary agency responsible for solid waste management planning in the area served by the Acme facility, and ordered the discharger and the County to submit periodic reports showing progress towards developing an upland alternative to the Acme site by June 1987.

8. The Board adopted a revised Water Quality Control Plan for the San Francisco Bay Region (Basin Plan) on December 17, 1986, and the State Water Resources Control Board approved it on May 21, 1987.
9. The Basin Plan, Chapter 2, defines wetlands as follows:

"Wetlands are waters of the State and the United States. Wetlands are defined in 40 CFR 122.2 [Title 40 Code of Federal Regulations Section 122.2] as those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include saltwater marshes, swamps, mudflats, and riparian areas. Because of the seasonality of rainfall in the Region, some wetlands may not be easy to identify by simple means. Therefore, in identifying wetlands the Board will rely on such indicators as hydrology, hydrophytic plants and/or hydric soils and implementation guidelines to be adopted by the Board. ..."

10. The bulk of the proposed expansion areas is considered to be wetlands by the Army Corps of Engineers, the U.S. Fish and Wildlife Service, and the Department of Fish and Game. The discharger agrees that a significant portion of the proposed fill areas are wetlands.

11. The Basin Plan states that the Regional Board will use Senate Concurrent Resolution No. 28 and California Water Code Section 13142.5 as guidance for acting on wetlands.

Senate Concurrent Resolution No. 28 states:

"It is the intent of the legislature to preserve, protect, restore, and enhance California's wetlands and the multiple resources which depend on them for the benefit of the people of the state.

The California Water Code, Section 13142.5, states:

"Highest priority shall be given to improving or eliminating discharges that adversely affect ... Wetlands, estuaries, and other biologically sensitive sites."

12. The expected fill life of the proposed expansion is 2.6 years.
13. Contra Costa County has not developed or located a new solid waste disposal site. The Contra Costa County Board of Supervisors, by letter dated March 22, 1988, requested the discharger to apply for expansion into the wetlands.
14. This Order prohibits the proposed project, therefore the provisions of the California Environmental Quality Act (Public Resources Section 2100 et. seq.) do not apply.
15. The Board has notified the discharger and interested agencies and persons of its intent to deny waste discharge requirements for the proposed discharge and has provided them with the opportunity for a public hearing and an opportunity to submit their written views and recommendations.
16. The Board, in a public hearing on August 17, 1988, heard and considered all comments pertaining to the discharge.

IT IS HEREBY ORDERED that the proposed expansion of the Acme landfill into wetland areas is prohibited.

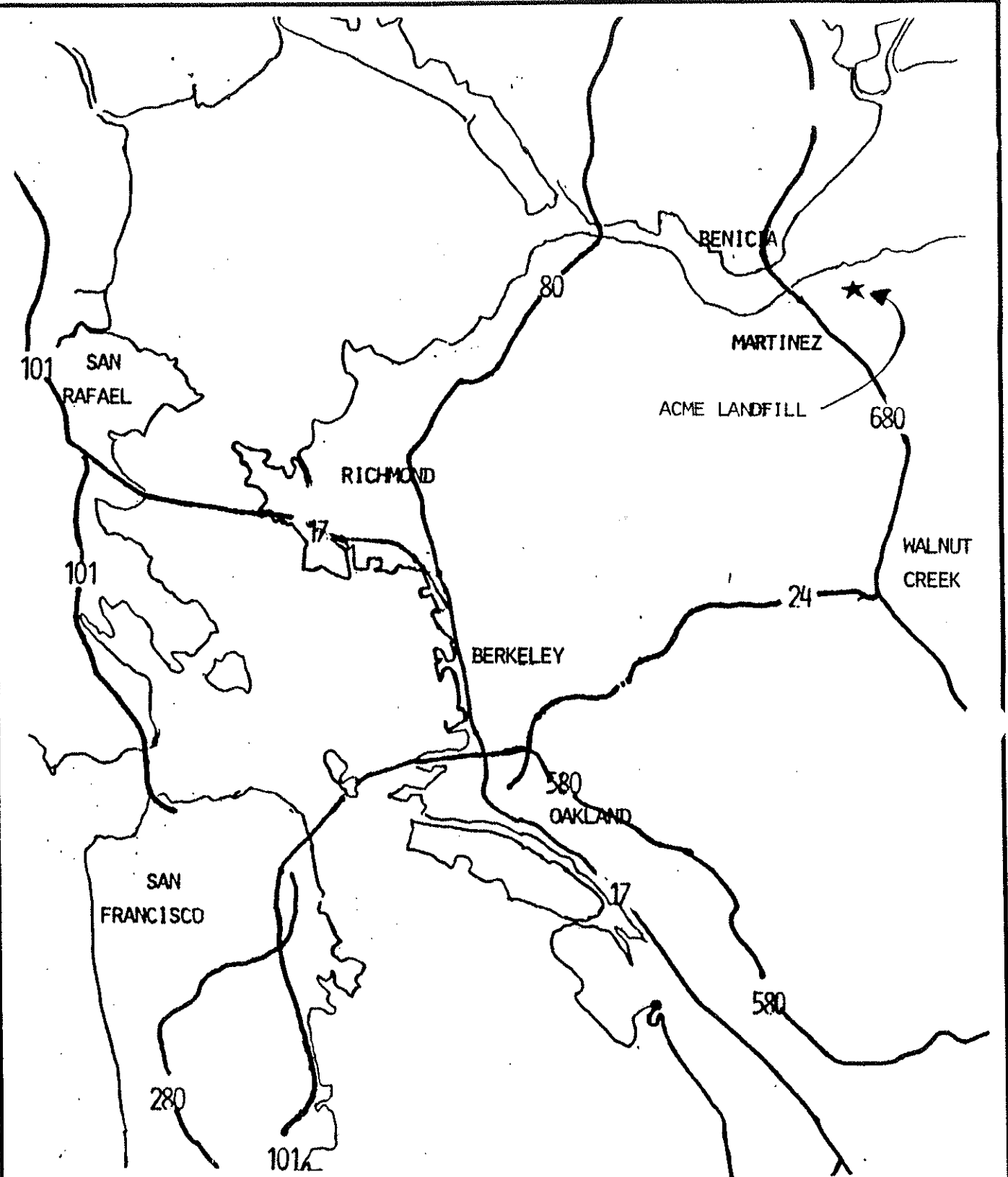
I, Steven R. Ritchie, Executive Officer, do hereby certify the foregoing is a full, true and correct copy of an Order of the California Regional Water Quality Control Board, San Francisco Bay Region, on August 17, 1988.



STEVEN R. RITCHIE
Executive Officer

Attachments:

- A - Site Location Map
- B - Site Map



STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

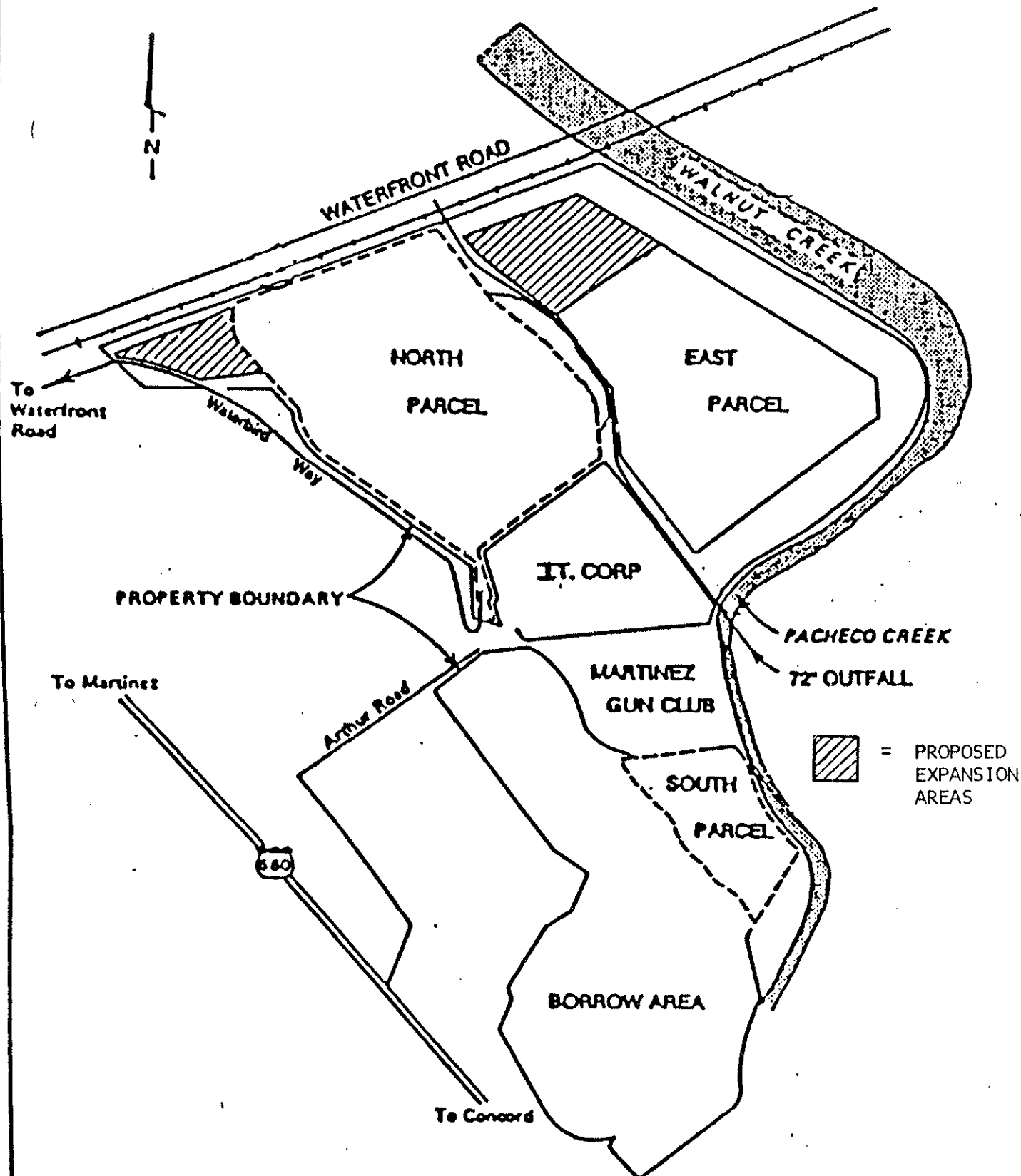
ACME LANDFILL CORP.
SITE LOCATION MAP

ATTACHMENT "A"

DRAWN BY:

DATE:

DRWG. NO.



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SCALE IN FEET

STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

ACME SANITARY LANDFILL

ATTACHMENT B

DRAWN BY

DATE

DRWG NO.